

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DELBERT MCNEIL,)	
)	
Petitioner,)	
vs.)	NO. CIV-07-1415-HE
)	
BRUCE HOWARD, WARDEN,)	
)	
Respondent.)	

ORDER


Petitioner Delbert McNeil, a state prisoner appearing *pro se*, filed an action pursuant to 28 U.S.C. § 2254 seeking federal habeas relief from his state court conviction. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Doyle W. Argo, who recommended that the action be dismissed for lack of subject matter jurisdiction and in the alternative that habeas relief be denied on the merits.

Petitioner failed to object to the Report and Recommendation and thus waived his right to appellate review of the factual and legal issues it addressed. United States v. 2121 East 30th Street, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1)(C); LCvR72.1(a). The court has also considered the merits of the action and substantially concurs with the Magistrate Judge's conclusion.

Accordingly, the court **ADOPTS** the Report and Recommendation [Doc.# 16], **DENIES** the petitioner's writ of habeas corpus [Doc. # 1].

IT IS SO ORDERED.

Dated this 25th day of September, 2008.



JOE HEATON
UNITED STATES DISTRICT JUDGE